



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

28 JAN 2015/

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article Number: 7011 0470 0002 2747 2574

Mr. Kurt Schmidt, General Manager
Blackbird Bend Casino
P.O. Box 89
Onawa, Iowa 51040

RE: Blackbird Bend Casino Public Water System
Federal ID: 070000017

NOTICE OF VIOLATION

Dear Mr. Schmidt:

The purpose of this letter is to notify the Blackbird Bend Casino Public Water System of a violation of the Safe Drinking Water Act at the Blackbird Bend Casino and the steps necessary to address the noncompliance.

The Blackbird Bend Casino (Casino) is classified as a Non-Community PWS, as defined by the SDWA, Code of Federal Regulations 40 CFR § 141.2. The U.S. Environmental Protection Agency, Region 7 is the Primacy Agency tasked with oversight of the Casino PWS. Under the SDWA, public water systems are required to address significant deficiencies identified in a sanitary survey within an approved timeframe as stated in 40 CFR § 141.403(a)(5)(ii)(A). Significant deficiencies are defined as, "a defect in design, operation, maintenance, or a failure or malfunction of the sources, treatment, storage or distribution system that the EPA determines to be causing, or has the potential to cause the introduction of contamination into the water delivered to consumers".

Background:

The EPA performed a Sanitary Survey of the Casino water system on December 10, 2013, and identified 12 significant deficiencies. The Sanitary Survey report, including the significant deficiencies, were subsequently transmitted to the Casino on February 18, 2014.

The EPA initially established June 30, 2014, as the deadline for the Casino to complete corrective actions to resolve the significant deficiencies, however on June 26, 2014, the Casino requested an extension for completing corrective actions to December 31, 2014. By letter dated July 28, 2014, the EPA agreed to the Casino's request, establishing December 31, 2014, as the deadline for completing all



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necessary corrective actions to resolve the 12 significant deficiencies identified in the December 2013 Sanitary Survey.

The Casino provided monthly progress reports to the EPA from September 1, 2014, to January 1, 2015, describing the status of the required corrective actions. The EPA reviewed the most recent progress report submitted by the Casino, dated January 1, 2015, and finds the following:

Significant Deficiencies 1, 2, 3, 9, 11, and 12 have been adequately addressed.

Significant Deficiencies 4, 5, 6, 7, 8 and 10 have not been adequately addressed.

Violation: Failure to Meet Treatment Technique Requirements for a Ground Water System - 40 CFR § 141.403:

As required at 40 CFR § 141.403(a)(5)(ii), no later than December 31, 2014, the Casino was to have completed corrective actions to resolve significant deficiencies 4, 5, 6, 7, 8, and 10, as identified in the December 2013 sanitary survey. The EPA has determined that these significant deficiencies have not been resolved. This constitutes a Treatment Technique violation of the Ground Water Rule.

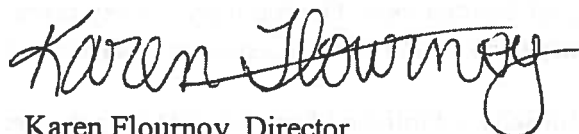
Pursuant to 40 CFR § 141.203, this Treatment Technique violation requires Tier 2 Public Notice, meaning that the Casino must provide notification within 30 days of receipt of this NOV, and the Public Notice must remain in place for a minimum of seven days, or until the significant deficiencies are resolved to the satisfaction of the EPA. The required content of the Public Notice is described in 40 CFR § 141.205.

Enclosed please find the EPA guidance regarding Public Notice for this type of violation. Please prepare the appropriate Public Notice, post it in conspicuous locations around the Casino, and provide the EPA a certified statement of such posting.

Representatives of the EPA and the Casino met via conference call on January 9, 2015, to discuss these unresolved significant deficiencies. The EPA subsequently transmitted a summary of the call via e-mail (See Enclosure) to Casino representatives, outlining necessary actions and a schedule for resolving the outstanding significant deficiencies. The EPA encourages the Casino to proceed in a timely manner at resolving the unaddressed significant deficiencies as discussed on our January 9 call. Failure to resolve the deficiencies in a timely manner may result in escalated enforcement.

If you have questions regarding this matter, please contact Kimberly Willis, at (913) 551-7069, or by e-mail at willis.kimberly@epa.gov.

Sincerely,



Karen Flourney, Director
Water, Wetlands and Pesticides Division

Enclosure

cc: Mr. Vernon Miller, Chairman, Omaha Tribe of Nebraska
Mr. Brad Appleton, COO Blackbird Bend Casino
Mr. Robert Warner, Maintenance Department, Blackbird Bend Casino
Mr. Frank Holliday, Operator, Blackbird Bend Casino

Instructions for GWR Failure to Take Corrective Action Within Required Time Frame Notice – Template NC-26

Template on Reverse

A system's failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a fecal indicator-positive ground water source sample or significant deficiency under the Ground Water Rule (GWR) is a treatment technique violation and requires Tier 2 notification. You must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists. Your state may have more stringent requirements for treatment technique violations. Check with your state to make sure you meet all requirements.

If this notice is for failing to address a fecal indicator-positive source sample, a Tier 1 notice for detecting a fecal indicator in the source water should have already been issued. Consider providing the history of the situation in this notice (i.e., what events lead to requiring corrective action) to avoid confusing the public when this second notice is issued.

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand or direct delivery
- Mail

You must also use *another* method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)].

If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics with an asterisk on either end.

This template also includes mandatory language encouraging further distribution to persons who may not have received the notice [40 CFR 141.205(d)] and is presented in this notice in italics and with an asterisk on either end. However, if you post the notice such that all possible users have access to the notice, this language is not applicable and can be omitted.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with Ground Water Rule treatment technique violations. You can use one or more of the following statements, if appropriate, or develop your own text:

- Although we did not meet our deadline, we are now in consultation with the state to develop a corrective action plan.
- The [source of contamination/significant deficiency] has been identified and addressed.
- We have implemented a short term plan to address the immediate issue while we pursue the long-term solution.

After Issuing the Notice

Make sure to send your state a copy of each type of notice and a certification that you have met all the public notification requirements within ten days after issuing the notice [40 CFR 141.31(d)].

It is a good idea to inform your consumers when the violation has been resolved, especially if you have regular customers. See Template NC-7 for a "problem corrected" notice template.